

# **EXHIBIT N**

**DECLARATION**

I, Timavia Cole, do hereby swear, affirm and attest under the penalties of perjury as follows, based upon my personal knowledge of the matters contained herein:

1. I am over the age of 18 and competent to testify to the matters stated in this declaration. I give this declaration voluntarily. I have not been promised any benefit, coerced or threatened in any manner in exchange for the testimony in this declaration.

2. I have been employed at The 40/40 Club, located at 6 West 25<sup>th</sup> Street, New York, New York, as a Telephone Operator/Receptionist from approximately October 25, 2007 through the present.

3. I do not consider Shawn Carter to be my employer. I have never witnessed him exercise control over any personnel decisions at The 40/40 Club. To my knowledge, Mr. Carter does not interview employees, does not hire employees, does not set policies for the payment of wages, pay rates or the method of payment, and does not sign employees' paychecks. I have never witnessed Mr. Carter supervise or discipline employees, investigate complaints, or set employment policies or procedures.

4. I also do not consider Juan Perez to be my employer. I have never witnessed him exercise control over any personnel decisions at The 40/40 Club. To my knowledge, Mr. Perez does not interview employees, does not hire employees, does not set policies for the payment of wages, pay rates or the method of payment, and does not sign employees' paychecks. I have never witnessed Mr. Perez supervise or discipline employees, investigate complaints, or set employment policies or procedures.

5. At all times throughout my employment, I have been required to clock in and clock out using the posi-touch computer system to provide The 40/40 Club with an accurate record of my time worked.

6. I am paid \$12 per hour. I have always been paid for all hours that I have worked.

7. I have never worked more than 40 hours in any workweek.

8. My paychecks are available for me to pick up from the Club on a weekly basis. They are kept in a box in the office. Additionally, I can check my hours and wages online, and download an electronic version of my paycheck. Attached hereto as Exhibit A is a printout thereof.

9. I have never had any deductions taken from my wages without my consent. The Club has never taken improper deductions from my wages, for instance, if some items were missing. I am not aware of any such deductions being taken from any other employee's wages.

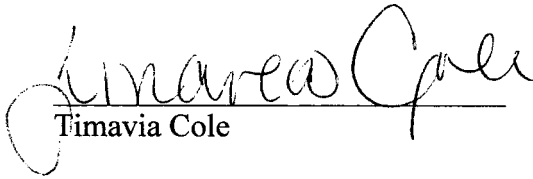
10. I received my 2007 W-2 from the Club in a timely manner. It accurately reflects the wages that I earned.

11. I am aware that there is a lawsuit pending against the Club brought by former employees who claim that they were not properly paid their full and proper wages. I do not desire to become an opt-in plaintiff in the pending lawsuit because the Club has paid me all wages to which I am entitled. I have not been denied any minimum, overtime or other wages.

12. This declaration was prepared by counsel for Twenty Ones, Inc. d/b/a The 40/40 Club based on an interview in which I voluntarily participated. I was advised that I could end the interview at any time. I have also been told by counsel for Twenty Ones Inc. that I should only sign this declaration if everything within it is true and correct to the best of my knowledge, information and belief. I have been given a full opportunity to review carefully this declaration I

have been given a full opportunity to review carefully this declaration and freely make any corrections and additions of any kind. I verify that the information I have provided in this declaration is true and correct.

Pursuant to 28 U.S.C. § 1746, I verify under penalty of perjury, under the laws of the United States of America, that the foregoing is true and correct.

  
Timavia Cole

2.28.07  
Date

# **EXHIBIT A**

## \* Paycheck - View

CO.	File	Dept	CLOCK	Voucher No.
FC8	100187	000600	XN50X	47004448

**Earnings Statement**

Twenty Ones, Inc  
6 West 25th Street  
New York, NY 10010

Period Ending: 02/17/2008

Pay Date: 02/21/2008

Taxable Marital Status: Single

Cole, Timavia

Exemptions/Allowances:

Federal: 02

State: 00



<u>Earnings</u>	<u>rate</u>	<u>hours</u>	<u>this period</u>	<u>Other Benefits and Information</u>	<u>this Period</u>
Regular	\$12.000	27.18	\$326.16		
	Gross Pay		\$326.16	ADP 401K COM	\$326.16
<u>Deductions</u>	<u>Statutory</u>				
	Federal income tax		\$14.06		
	Social Security tax		\$20.22		
	Medicare tax		\$4.73		
	State tax		\$7.87		
	Tax SUI		\$0.60		
	Net Pay		\$278.68		